

Claims 1 through 7, 15, 16, 26 and 35 through 58 are in this application. A fee of \$168.00 is enclosed for the two extra independent claims over three. Claims 1, 26, 35, 37, 38 and 51 are the independent claims in this application.

The applicants thank Examiner Medley for the telephone interview conducted on April 4, 2003. The applicants believe that the interview helped expedite prosecution. The applicants discussed amending claims 8 and 27 by deleting the formula to avoid confusing and 112 and/or new matter issues. The attorney of record, discussed the possibility of using the language that the reagent is a unsubstituted or nitro substituted phenyloxy carboxyl group that is reacted with the active nitrogen end group of the enantiopure amino acid; and the at least one carboxyl group of the amino acid group of the said intermediate is reacted with a) or b) that is present in claim 8 and 27.

The applicants further discussed said claims have listed the enantiopure amino acid; to correct the spelling in claim 1; to delete "unsubstituted" in claims 20 and 29; to define the R substituents in claims 23, 25, 32 and 34; to determine if claims 18 and 26 were duplicates; and to determine if the last formula on page 11 of the scheme should be corrected to read as D, L instead of L. The Examiner stated that the proposed formula faxed to the examiner on April 4, 2003 would not be entered of record because it was in conflict with the Formula II that was of record on page 8 of the instant specification and raised issues of confusing and new matter.

Claim 18 was objected to because, as the Examiner correctly pointed out, there was a typographical error with the letter "p" inserted between nitro and phenyloxycarbonyl. The applicants have amended this claim. See claim 43. Therefore, this objection should be withdrawn.

Claims 8 and 19 through 34 were rejected under 35 U.S.C. § 112, second paragraph. Claims 8 through 9, 14, 17, 19 through 25 and 27 through 34 were rejected under 35 U.S.C. § 102(b) as being anticipated by Gary *et al.* "Preparation and Properties of Some alpha Azo-amino-acid Derivatives, Their Possible Use in Peptide Synthesis" ("Gary"). Claims 8, 9, 14, 19 through 25, 27 through 34 were rejected under 35 U.S.C. § 102(b) as being anticipated by Ryono *et al.* U.S. Patent No. 4,885,292 ("Ryono"). Claims 8 through 9, 14, 17, 19 through 25 and 27 through 34 were rejected under 35 U.S.C. § 102(b) as being anticipated by Patel U.S. Patent No. 5,217,958 ("Patel"). Claims 8 through 9, 14, 17, 19 through 25 and 27 through 34 were rejected under 35 U.S.C. § 102(b) as being anticipated by Norbeck *et al.* U.S. Patent No. 5,461,067 ("Norbeck"). Claims 8 through 9, 14, 17, 19 through 25 and 27 through 34 were rejected under 35 U.S.C. § 102(b) as being anticipated by Alrazzak *et al.* U.S. Patent No. 5,484,801 ("Alrazzak"). The applicants respectfully traverse these rejections.

The applicants appreciate that the Examiner indicated that claims 10 through 13, 18 and 26 contain allowable subject matter. The applicants have rewritten claims 10 and 11 into independent form and believe that these claims should be allowable. Applicants also believe that claim 26, since it is an independent claim, should also be allowable.

Section 112 Rejection

Claims 8 and 19 through 34 were rejected under 35 U.S.C. § 112, second paragraph. The Examiner stated that claims 8 and 27 were rejected because the phrase "at least one Z₁ and/or Z₂ is a substituent ... or both" is unclear as to the scope of protection that applicants are seeking. This phrase does not exist in the new independent claims 35 and 51.

The Examiner stated that claims 20 and 29 are indefinite for the substituted phrase "unsubstantiated" that is redundant and for the phrase "substituted" that is broader than the claim

from which each claim depends. The applicants have amended claims 20 and 29 and the phrase "unsubstituted" and "substituted" have been deleted from these claims. See newly added claims 45 and 53.

The Examiner stated that claims 23, 25, 32 and 34 are indefinite and unclear because R_1 , R_3+ and R_2+ substituents have not been defined. The applicants respectfully disagree. The applicants believe that these definitions used in claims 23, 25, 32 and 34 are clear to one of ordinary skill in the art being for the sulfonyl, sulfonamyl, ammonium and sulfonium groups. Enclosed is a portion from a text book that illustrates the definition that the applicants have used and the applicants again believe this is an art recognized term (see in particular Table 1.3 at page 18 and table 9.1). For the above reasons, this rejection should be withdrawn.

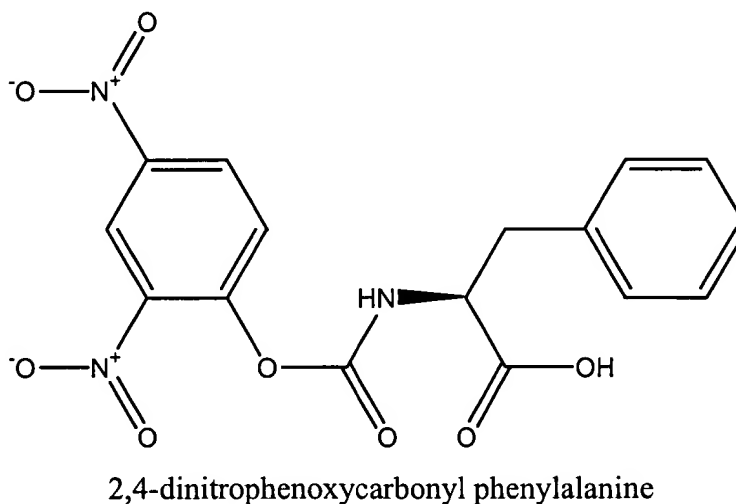
The Examiner stated that claims 18 and 26 are indefinite as they appear to be duplicates of each other. The applicants respectfully disagree. Claim 18 now corresponds to the applicants' claim 43. The applicants' claim 43 allows either the phenylalanine enantiomers to be either in the D or L configuration, whereas claim 26 shows only the L enantiomer. In other words, claim 26 is very specific and requires the L configuration as shown in Scheme 1 at page 11 of the specification. The L configuration is shown having the dotted bond line at the asterisk position. The D configuration would have a solid line and not a dotted line. The solid line versus the dotted line indicates a different stereo chemistry. The asterisk indicates where the stereogenic center of the compound is. The asterisk is a common indication of stereogenic centers and is understood by one of ordinary skill in the art. **The last formula on page 11 of the scheme is correct.** For the above reasons, claims 18 and 26 are not duplicates of each other and claim 18 is broader.

With respect to claim 26, the Examiner states that the asterisk appearing in the formula is

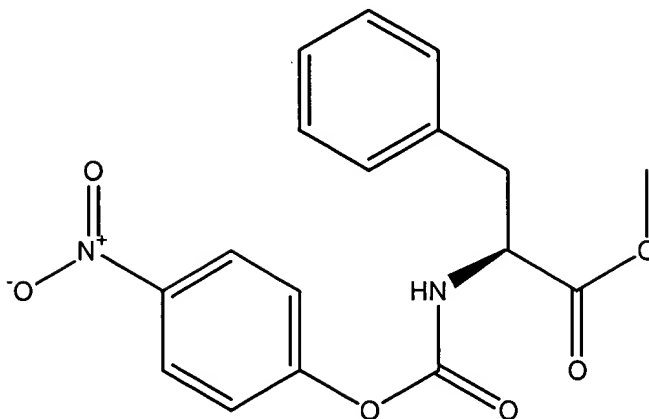
not defined. Again, the asterisk in the formula is, as stated above, a common indicator of the stereogenic center of the structure. The applicants believe for the above reasons that these rejections should be withdrawn.

Section 102(b) Rejections

Claims 8 through 9, 14, 17, 19 through 25 and 27 through 34 were rejected under 35 U.S.C. § 102(b) as being anticipated by Gary, Ryono, Patel, Norbeck and Alrazzak. The applicants believe that the independent claims are patentable over these references because the Examiner has relied upon these references for showing an ether linkage. Gary describes 2,4-nitrophenyloxycarbonyl)phenylalanine which has the following structure:

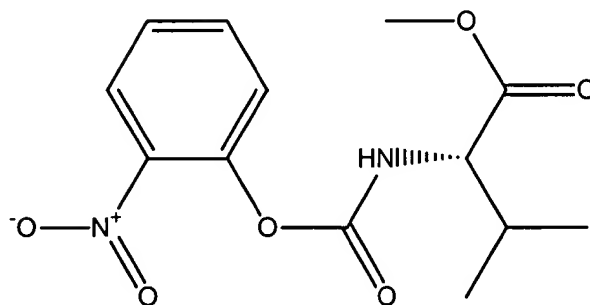


Ryono and Patel describe the N-4-nitrophenyloxycarbonyl)phenylalanine having a methyl ester as follows:



N-[(4-nitrophenoxy)carbonyl]-L-phenylalanine methyl ester

Norbeck and Alrazzak describe the N-4- (nitrophenyloxycarbonyl)L-valine methyl ester as follows:



(nitrophenyloxycarbonyl)L-valine methyl ester

In all of the structures cited by the prior art, none of the structures disclose that the carbonyl group contains either **(a) at least one ether bond to the carbonyl group or (b) a substituent comprising a chromophore selected from aromatic systems.** For the above reasons, since (a) and (b) are not shown or taught, these claims are not anticipated nor rendered

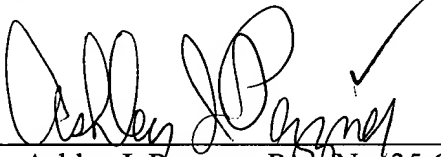
obvious over these references. Therefore, these rejections should be withdrawn.

A three-month extension fee has been paid. No additional fees are due. If there are any additional fees due in connection with this filing, the Commissioner is authorized to charge or credit any overpayment to Deposit Account No. 03-2775.

For the reasons set forth above, Applicants believe that the claims are patentable over the references cited and applied by the Examiner and a prompt and favorable action is solicited. The applicants believe that these claims are in condition for allowance, however, if the Examiner disagrees, the applicants respectfully request that the Examiner telephone the undersigned at (302) 888-6270.

Respectfully submitted,

Connolly Bove Lodge & Hutz LLP

By  ✓
 Ashley I. Pezzner, Reg. No. 35,646
 P.O. Box 2207
 Wilmington, DE 19899
 (302) 888-6270

Enclosure: Text book
 258164